



## OLR BACKGROUNDER: BIFURCATING TOWN BUDGET REFERENDA

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This report discusses whether a municipality can split its budget referendum to hold separate votes on the town and board of education budgets? It updates OLR report [2003-R-0128](#).

The Office of Legislative Research is not authorized to provide legal opinions and this report should not be considered one.

### SUMMARY

A municipality may enact a charter or home rule ordinance provision to hold separate votes on the town and board of education budgets. In 2004, the state Supreme Court upheld a provision in Naugatuck's charter that allowed separate referenda on the town operating budget and the board of education budget. In doing so, it reversed an Appellate Court decision that held the provision conflicted with the statutory budget approval process and upset the balance of power between the boards of education and finance.

The Supreme Court held that local budgetary policy is a matter of local, rather than statewide, concern and thus municipal charter provisions supersede statutory provisions on the same subject. It also found that Naugatuck's charter provision did not conflict with the various powers and duties of the boards of education and finance (*Board of Education v. Naugatuck*, 268 Conn. 295 (2004)).

According to a 2011 study conducted by the town of Hebron, 39 Connecticut municipalities require or authorize split votes on the town and board of education budgets.

## **BOARD OF EDUCATION V. NAUGATUCK, ET AL.**

### ***Background and Procedural History***

In November 1996, voters in the town of Naugatuck approved two amendments to the town's charter. The first proposal allowed the mayor to serve on the board of education; the second allowed up to three separate budget referenda for both the town's operating budget and the board of education's budget. After both provisions passed, the board of education sued the town, seeking to have the amendments declared void and invalid. After several procedural turns, the Appellate Court in June 2002 held that (1) the amendment concerning the mayor's membership on the board was valid and (2) the budget amendment was invalid. The town then appealed to the state Supreme Court.

### ***Issue***

The issue before the state Supreme Court was whether the Appellate Court properly concluded that the amendment providing for separate referenda on the town operating budget and board of education budget was invalid because it (1) violated the statutory budget approval process in [CGS § 7-344](#) and (2) impermissibly conflicted with statewide education policy.

### ***Holding and Analysis***

The state Supreme Court reversed the Appellate Court's decision. In doing so, the Supreme Court held that (1) [CGS § 7-344](#) does not apply to towns that have charter provisions addressing the budget adoption process and (2) Naugatuck's budget amendment did not impermissibly conflict with statewide education policy.

***Applicability of CGS § 7-344.*** The court first considered whether the budget amendment violated [CGS § 7-344](#), which establishes a specific budgetary approval process. The Appellate Court concluded that (1) the legislative intent of the statute was for a budget to be voted on as a whole, not through piecemeal approval of its component parts, and (2) towns could not deviate from the process specified by the statute. It thus held that the budget amendment violated the statute.

However, the Supreme Court noted that, before determining whether the budget amendment violated [CGS § 7-344](#), it must first determine whether the statute applies to the budget amendment. The court looked to the state's Home Rule Act, noting that the act's rationale was that local matters are most logically answered locally. The court stated that, where a general law and a charter provision conflict, the general law must pertain to a matter of statewide concern in order to prevail over the charter provision. Otherwise, the charter provision prevails.

The court thus analyzed whether [CGS § 7-344](#) concerns a matter of statewide interest that would supersede a local charter provision containing its own provisions concerning budget formulation and approval. The court held that it did not. It concluded that local budget matters are an area of local rather than statewide concern, meaning that the statute did not supersede Naugatuck's budget amendment. In reaching this conclusion, the court cited a 1979 decision in which the court upheld a municipal charter provision in the face of a conflicting state statute on the ground that the Home Rule Act authorizes the delegation of the power to address issues of local concern (*Caulfield v. Noble*, 178 Conn. 81, 93 (1979)).

The court found "that, in an area of local concern, such as local budgetary policy, general statutory provisions must yield to municipal charter provisions governing the same subject matter." The court also noted that while education is an issue of statewide concern, "the procedure that [the municipality] employs in adopting the education component of the budget, is not *itself* a matter of statewide concern" (*Naugatuck* at 309) (emphasis in original).

***Relationship to State Education Policy.*** The court next considered whether the budget amendment conflicted with state education policy, specifically by upsetting the balance of power between boards of education and local budgeting authorities. The Appellate Court had found that the budget amendment upset the balance of power by allowing voters to veto the education portion of the budget. These voters, the court stated, might not be aware of the statutory requirements imposed on the board of education or understand the town's budget priorities as well as the budgeting authority. Specifically, the court noted that the voters' rejections could imperil the board of education's ability to meet its statutory requirements.

The Supreme Court disagreed, noting that even if voters reject the board of education's budget, the board and budgeting authority could not legally propose or adopt an education budget that fails to satisfy state educational requirements. The court held that "as long as the board of education and [budgeting authority] act in accordance with statutory requirements, *town voters never will have the opportunity to accept or reject an education budget that is insufficiently funded because the board of education is barred from recommending such a budget and the joint boards are barred from adopting such a budget*" (Id. at 317) (emphasis in original).

The court also disagreed with the Appellate Court's determination that the budget amendment gave voters veto power over the education budget. The court noted that the budget amendment gave voters more input in the budget process by allowing them to reject up to three proposed budgets. However, it found that even if voters were to reject all three budgets, the budgeting authority would still be required to adopt a budget that complies with state requirements without further voter input.

## **MUNICIPALITIES WITH BIFURCATED BUDGET REFERENDA**

A 2011 study on bifurcating town budgets, prepared by the town of Hebron, identified 39 municipalities that require or authorize separate votes on town and board of education budgets. Table 1 lists the municipalities. The list excludes towns that are members of regional school districts, since state law requires regional school district budgets to be voted on separately ([CGS § 10-51](#)).

**Table 1: Municipalities with Bifurcated Budget Referenda**

Bethel	Griswold	New London	Sherman
Brooklyn	Groton	New Milford	Simsbury
Canaan	Hampton	North Stonington	Sterling
Canterbury	Killingly	Old Saybrook	Thompson
Clinton	Lisbon	Oxford	Voluntown
Colchester	Madison	Plainfield	Watertown
Cromwell	Milford	Putnam	Westport
Eastford	Naugatuck	Ridgefield	Willington
Ellington	New Fairfield	Scotland	Windham
Fairfield	New Hartford	Seymour	

Source: Hebron Bifurcation Study Committee, *Bifurcation in Connecticut: A Status Report*, 2011

RP:ts